

REMARKS

This Amendment is in response to the non-final Office Action of October 14, 2009 in which claims 1-6, 8-11, 13, 15, 16, 18 and 19 were rejected.

Regarding the objection to claims 18 and 19, the changes suggested by the Examiner have been carried out and withdrawal of the objections to claims 18 and 19 is requested.

Claims 1-4, 6, 8-11, 13, 15-16 and 18-19 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over *De Beer* (US 2003/0165227) in view of *Macaluso* (US 2005/0079863).

The primary *De Beer* reference has already been discussed in previous Office Actions and the Examiner is referred to Applicant's arguments previously submitted in connection with overcoming the latest obviousness rejection.

Regarding the secondary *Macaluso* reference, the Examiner is incorrect to cite this as a 35 U.S.C. Section 103(a) reference because its filing date of October 8, 2003 is after the priority date of the present application of May 9, 2003, i.e., the International filing date of May 9, 2003. In other words, the present application is the U.S. National Stage of International application no. PCT/IB2003/001812 filed May 9, 2003 in the English language and published on November 18, 2004 in the English language under International publication no. WO 2004/100596. See the Notice of Acceptance of the application under 35 U.S.C. 371 and 37 C.F.R. 1.495 mailed June 20, 2006 indicating receipt of the national phase application on November 9, 2005 and completion of all 35 U.S.C. Section 371 requirements on that date.

Although the filing receipt mailed June 20, 2006 indicated a domestic priority date inconsistent with USPTO records, the filing receipt was corrected in the corrected filing receipt mailed September 14, 2006 in response to our letter of August 7, 2006 pointing out that the USPTO records were incorrect and asking for a corrected filing receipt. Therefore, the domestic priority data as claimed by the Applicant of May 9, 2003 has been recognized by the USPTO.

Withdrawal of the 35 U.S.C. Section 103(a) rejection of claims 1-4, 6, 8-11, 13,

15-16 and 18-19 is requested.

Regarding the obviousness rejection of claim 5 based on *De Beer* and *Macaluso* as applied to claim 3 and further in view of *Tomiyori* (US 5,305,372), claim 5 is nonobvious for at least the same reasons as mentioned above in applicant overcoming the obviousness rejection of claim 1. Withdrawal of the obviousness rejection of claim 5 is also requested.

The objections and rejections of the Office Action of October 14, 2009, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-6, 8-11, 13, 15, 16, 18 and 19, as amended, to issue is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, reading "Francis J. Maguire". The signature is fluid and cursive, with a large loop at the end of the last name.

Francis J. Maguire  
Attorney for the Applicant  
Registration No. 31,391

FJM/lk  
WARE, FRESSOLA, VAN DER SLUYS  
& ADOLPHSON LLP  
755 Main Street, P.O. Box 224  
Monroe, CT 06468  
Tel: (203) 261-1234